

REMARKS

Claims 1-20 are pending in the application.

Claims 1-20 had been rejected.

Claims 1-3, 6-7, 9, 13-15, and 18-19 had been cancelled without prejudice.

Claims 4, 5, 8, 10-12, 16, 17 and 20 have been amended.

New Claims 21 and 22 have been added.

No new matter has been added.

Reconsideration of the Claims is respectfully requested.

1. Rejection under 35 U.S.C. § 103(a)

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). MPEP § 2142, p. 2100-134 (Rev. 3, May 2005).

(a) Claims 1 through 13 had been rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,160,798 to Reed et al. ("Reed").

Claims 1-3, 6-7, 9, and 13 had been cancelled without prejudice. Claim 4 has been amended to depend from new Claim 21.

Reed describes resource management in a radiotelephone network that is accomplished by load balancing. When it is determined that the network has become out of balance and that too many resources are being used at a particular cell site, the network causes handoff threshold parameters to be changed thereby causing mobile units to change the cell sites with which they are in soft handoff. This reduces the number of mobiles being supported by the overloaded cell site but does not affect the maximum number of cell sites to which each mobile can be in soft handoff. That is, Reed does not reduce the number of cell sites or sectors, but instead replaces them with less resource burdened sites or sectors.

Under Reed, when the number of available user spreading codes fall below the threshold, "the process selects a subscriber unit having an established soft handoff link with a second base station . . ." (Reed

Col. 7:10-15) (emphasis added). “Once the subscriber unit has been selected, the process then increases reporting thresholds, such as T_{drop}, in the selected subscriber unit to increase the likelihood that . . . the soft handoff linked with the resource limited base station will be eliminated.” (Reed Col. 7:29-36). That is, Reed encourages the mobile to drop its soft handoff connection with a resource limited base station by changing its handoff parameters and *hopefully* transferring soft handoff to other soft handoff links, preferably those that are not with a resource limited base station.

Also, Applicant’s Claim 8 recites, *inter alia*, a “method for managing Walsh Codes in a Code Division Multiple Access (CDMA) cellular wireless communication system, the method comprises: assigning a plurality of Walsh Codes to each of a plurality of serviced mobile terminals, wherein each of a plurality of Walsh Codes servicing a mobile terminal corresponds to respective soft handoff link transmissions and each of the plurality of Walsh codes is used by each cell or sector participating in hand-off for the serviced mobile terminals for covering its soft handoff link transmissions; . . . and limiting the number of soft handoff links that can be employed for each of the plurality of mobile terminals to thereby limit the number of Walsh Codes being employed by: . . . reducing the number of cell sectors or cell sites to limit the number of soft handoff links that can be employed for hand-off, and repeating the terminating of the weakest soft handoff link for at least some of the plurality of serviced mobile terminals.” (emphasis added).

Further, Applicant’s new Claim 21 recites, *inter alia*, a “method for managing Walsh Codes in a wireless communications network comprising the steps of: determining when a given communications cell sector or cell site has fewer than N unused Walsh Codes, where N is a pre-set integer, thereby blocking new call setups or new hand-offs by the given cell sector or cell site; . . . and reducing the number of cell sectors or cell sites M by one and repeat the steps of determining the weakest soft handoff link and causing that link to be dropped.” (emphasis added).

Accordingly, Applicant respectfully submits that a *prima facie* case has not been established in that Reed does not teach or suggest all the claim limitations as set out in the method of Applicant’s Independent Claim 21 and Independent Claim 8. Also, Applicant respectfully submits that there is no suggestion or motivation, either in Reed or in the knowledge generally available to one of ordinary skill in the art, to modify the hand-off accelerant of Reed to achieve Applicant’s claimed invention as set out in Claims 4 and 5 that depend directly or indirectly from Independent Claim 21, and as set out in Claims 10-12 that depend directly or indirectly from Independent Claim 8.

(b) Claims 14 through 20 were rejected under 35 U.S.C. 103(a) as being unpatentable over Reed in view of U.S. Publication No. 2005/0221828 to Wakuta et al. ("Wakuta").

Claims 14, 15, 18 and 19 have been cancelled without prejudice. Claims 16 and 20 had been amended to depend from new Claim 22.

Wakuta relates to a "method of handing off a mobile station in a mobile communication system including first and second wireless base stations, comprising the steps of: (a) varying a handoff threshold which is set in the mobile station, according to quality of a wireless link between the mobile station and the first wireless base station which currently controls the mobile station; and (b) handing off the mobile station from the first wireless base station to the second wireless base station, based on the handoff threshold." (Wakuta, ¶ 0022) (emphasis added). That is, Wakuta varies the handoff threshold in each of the mobile stations. (Wakuta, ¶ 0057). Wakuta does not, *inter alia*, reduce the number of cell sites or sectors, but simply recites thresholds for mobile station handoff.

Applicant's new Claim 22 recites, *inter alia*, a "base station controller that supports Code Division Multiple Access (CDMA) operations, the base station controller comprises: . . . a plurality of software instructions that are executed by the processor, the plurality of software instructions including: . . . software instructions that, upon execution by the processor, cause the base station controller to, in the event that the preceding step fails to increase the number of unused Walsh Codes and the number of cell sectors or cell sites M, where M is greater than a predetermined lesser number of soft handoff links S, where S is an integer, reduce the number of cell sectors or cell sites M by one and repeat the steps of determining the weakest soft handoff link and causing that link to be dropped." (emphasis added).

Accordingly, Applicant respectfully submits that there would be no suggestion or motivation, either in the handoff accelerator of Reed or the mobile station threshold device of Wakuta to achieve Applicant's claimed invention as set out in its Independent Claim 22, or in Claims 16, 17 and 20 that depend therefrom.

2. Conclusion

As a result of the foregoing, the Applicant respectfully submits that Claims 4, 5, 8, 10-12, 16, 17, 20 and new Claims 21 and 22, are in condition for allowance, and respectfully requests an early allowance of such Claims. Applicant respectfully submits that no additional payment of fees is required for the new claims in that the new claims are not in excess of the number previously paid for. 37 CFR 1.16; MPEP 607 at p. 600-58 (August 2005, rev. 3).

If any issues arise, or if the Examiner has any suggestions for expediting allowance of this Application, the Applicant respectfully invites the Examiner to contact the undersigned at the telephone number indicated below or at *ksmith@texaspatents.com*.

The Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to Garlick Harrison & Markison Deposit Account No. 50-2126 (ref 13166RRUS01U). 37 CFR 1.136.

Respectfully submitted,

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